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February 14, 1997

VIA HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554

Re: Access Charge Reform, CC Docket No. 96-262

Dear Mr. Caton:

Enclosed for filing, on behalf of Roseville Telephone Company, are the original and 12 copies of their Reply Comments in the above-referenced matter. Also enclosed is a diskette of the Reply Comments on WordPerfect 5.1.

If you should have any questions regarding this matter, please do not hesitate to call me.

Very truly yours,

Paul J. Feldman
Counsel for
Roseville Telephone Company

PJF/jr
Enclosures

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In the Matter of	)	
	)	
Access Charge Reform	)	CC Docket No. 96-262
	)	
Price Cap Performance Review for Local Exchange Carriers	)	CC Docket No. 94-1
	)	
Transport Rate Structure and Pricing	)	CC Docket No. 91-213
	)	
Usage of the Public Switched Network by Information Service and Internet Access Providers	)	CC Docket No. 96-263

REPLY COMMENTS OF ROSEVILLE TELEPHONE COMPANY

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OFFICE OF SECRETARY

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REPLY COMMENTS OF ROSEVILLE TELEPHONE COMPANY

Roseville Telephone Company ("Roseville") hereby submits its Reply Comments in response to the Commission's Notice of Proposed Rulemaking released on December 24, 1996, in the above-captioned proceeding ("NPRM"). In these Reply Comments, Roseville demonstrates that the combined interaction of proposals in this proceeding with those in the Commission's Interconnection and Universal Service Reform proceedings imposes a unique and unacceptable regulatory and financial burden on mid-sized local exchange carriers, which must be remedied.

I. INTRODUCTION

Roseville is a rate-of-return ("ROR") local exchange carrier ("LEC") with over 100,000 access lines. In Comments filed in the first round of this proceeding, Roseville set out three basic principles that the Commission should consider in enacting access charge reform. First, the Commission should enact reforms that are fair to all

competitors, not just to new entrants. Specifically, access charge rules must provide LECs the flexibility to be competitive with other providers of access service, yet allow LECs to recover the total costs of providing access service that have been properly incurred to meet the public service obligations required by state and federal regulators.

Second, the Commission must act in a manner consistent with its numerous public statements that access reform is part of an interrelated "trilogy" of dockets that also includes reform of local competition rules[1] and revision to Federal Universal Service funding mechanisms.[2] While there is currently some uncertainty as to the final results of the other dockets in the trilogy, rational decision-making requires the Commission to take into account the impact of those dockets in crafting revisions to the access charge rules. For example, in establishing rules for the prices of unbundled network elements, the Commission relied on total element long run incremental costs ("TELRIC"), and ignored the obvious need and right of LECs to recover properly incurred total costs. In defending these rules in front of the Eighth Circuit, Counsel for the Commission apparently conceded that embedded costs should be recovered, and assured the Court that such recovery will occur in the context of the access reform and universal service proceedings.[3] While Roseville does not believe that recovery of costs

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[1] *See*, Interconnection First Report and Order, 11 FCC Rcd 15499 (1996) ("*Interconnection R&O*"), *petition for review pending and partial stay granted, sub. nom.* Iowa Utilities Board et. al. v. FCC, No. 96-3321 and consolidated cases (8th. Cir., Oct. 15, 1996).

[2] *See* Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Recommended Decision, FCC 96J-3 (November 8, 1996)("*Recommended Decision*").

[3] *See, "Appeals Court Hears Arguments on FCC Interconnection Order"*, TR Daily, January 17, 1997, at page 2. Embedded costs must be recovered at least in the context

from the provision of unbundled network elements should be shifted from local interconnection to interstate access reform, at the very least, the Commission must follow its own assurances and allow the recovery of total costs from the provision of access services in this proceeding. Similarly, while Universal Service funding mechanisms have in the past supported facilities assigned to the intrastate jurisdiction, the Commission cannot blithely assume that Universal Service support funds could in the future also be used to cover costs assigned to the interstate jurisdiction (*See* NPRM at para.246). On the contrary, for policy reasons and through use of proxy models to calculate costs, it seems extraordinarily likely that Universal Service funding will be substantially reduced from the current level.

Lastly, the Commission should not delay making comprehensive access charge reform available to ROR LECs. Contrary to the Commission's statement in paragraph 52 of the NPRM, delayed reform could substantially inhibit the ability of ROR carriers to be competitive, since in larger markets where ROR carriers operate, competition is imminent, if not already present. Furthermore, ROR carriers such as Roseville are too large to qualify for a Section 251(f)(1) exemption for rural telephone companies, and unlikely to receive a Section 251(f)(2) exemption from their state commission.

Based on the above three principles, Roseville made specific access charge reform proposals. *See* Comments at pages 5-20. In these Reply Comments, Roseville seeks to make one point clear: in enacting access charge reform, the Commission

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of this access charge reform proceeding, as the Commission's and Joint Board's proxy-model approach to cost calculation for the purposes of universal service support uses only forward-looking costs. *See* NPRM at para. 242.

must recognize the actions it is taking in its Interconnection and Universal Service proceedings, and remedy the regulatory squeeze it is imposing on mid-sized LECs, *i.e.*, those carriers

1) without the resources of companies like the Bell Operating Companies ("BOCs") or GTE, yet, 2) too large to take advantage of remedies made available to rural telephone companies, and 3) who as ROR carriers, have not been offered the comprehensive access charge reform necessary to fully respond to current or imminent competition.

II. THE COMMISSION MUST REMEDY THE REGULATORY "SQUEEZE" IT IS IMPOSING ON MID-SIZED LECS.

Roseville is concerned that in enacting its "Trilogy" of regulatory reforms, the Commission has proposed or imposed inappropriate and substantial financial and regulatory burdens on all LECs generally, as a result of focusing its attention on huge carriers like BOCs and GTE. While the Commission has on occasion recognized that all such burdens cannot or should not be imposed on all LECs, in doing so, it makes reference to exemptions from regulation made available under Section 251(f) of the Communications Act to "rural" telephone companies. Yet, there are a substantial number of LECs that neither have the resources of the BOCs or GTE, nor are small enough to qualify as rural telcos.[4] Under the Trilogy proposals, these carriers will be left

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[4] The Independent Telephone & Telecommunications Alliance, the trade association for such LECs, includes Roseville, as well as ALLTEL Corporation, Anchorage Telephone Utility, C-TEC Corporation, Century Telephone Enterprises, Inc., Cincinnati Bell Telephone Company, Citizens Utilities Company, Concord Telephone Company, Illinois Consolidated Telephone Company, Lincoln Telephone Company, Lufkin-Conroe Telephone Exchange, Inc. North State Telephone Company, Pacific Telecom, Inc., Rock Hill Telephone Company, Southern New England Telecommunications Corporation and TDS Telecommunications Corporation.

with regulatory and financial burdens that shackle their ability to compete fairly with giants such as AT&T and MCI, and improperly deny them recovery of their total cost of service.

Thus, as was discussed extensively by Roseville and other parties in the Interconnection proceeding, the Commission has explicitly mandated that LECs will not recover the actual cost of providing services to their competitors, as a result of the use of long-run incremental cost rules ("TELRIC") for provision of interconnection and unbundled elements, and the "avoidable cost" pricing principle for sale of services at wholesale prices. In the Universal Service proceeding, it appears likely that the Universal Support Funds received by LECs will be substantially reduced as a result of the use of the proposed proxy-cost models to calculate support requirements, rather than carriers' actual costs. Similarly, non-rural telcos such as Roseville will lose access to the Long Term Support fund.[5] Lastly, in the Access Charge Reform proceeding, the Commission proposes to phase out or eliminate the Transport Interconnection Charge ("TIC") with no assurance of any substitute mechanism to recover the entire on-going real costs currently covered by that TIC, while at the same time asking "whether" LECs should be allowed to recover their total cost of providing access services.

In sum, as a result of the Trilogy of proceedings, LECs are required to open their networks and provide service to competitors at below-cost prices, and compete with those new entrants (while inevitably losing some market share to them), while also losing revenue (*e.g.*, TIC, LTS and universal service support) critical to maintaining the

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[5] *See, Recommended Decision* at para. 295.

network that will be used by both LECs and new entrants to provide service to subscribers. This regulatory and financial squeeze is not just damaging to incumbent LECs, but also to local competition itself,[6] and to the integrity of the local network.

Yet, while the Commission has recognized the dangers of this regulatory squeeze at various places in the Trilogy proceedings, it has either ignored the consequences in the case of BOCs (apparently assuming that such LECs have the resources to cover all loses and find new revenue streams in new services)[7] or referred to remedies generally available to rural telcos. However, mid-sized LECs do not have the financial resources of the BOCs, yet are too large to avail themselves to the remedies offered to rural telcos. In the context of interconnection, carriers such as Roseville are too large to seek a Section 251(f)(1) exemption, and they cannot count on state regulatory agencies to grant a Section 251(f)(2) suspension of interconnection requirements.[8] In the context of universal service, while BOCs may be large enough so

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[6] As noted by Roseville in its initial Comments in this proceeding, and extensively in the initial Comments of the United States Telephone Association, if LECs are not allowed to charge prices that recover the total costs of providing service, the result is obvious pricing distortions and improper market signals. This appears to be the exact opposite of the Commission's (and Congress') goal in enacting local competition.

[7] Commenters in this proceeding have had made the same error. For example, in addressing the issue of the need for incumbent LECs to recover embedded costs, the Ad Hoc Telecommunications Users Committee argues that the recovery of such costs is inconsistent with the price-cap regulatory regime, and that the need for recovery should be balanced against the new line of business opportunities available to BOCs, such as entrance into the interexchange business. Comments at pages 56 and 63. But carriers such as Roseville are not price cap companies, and already were entitled to enter into the interexchange business prior to the enactment of the 1996 Act.

[8] For example, Cincinnati Bell recently filed for a Section 251(f)(2) waiver (PUCO Case 96-708-TP-UNC), which was promptly rejected by the Ohio PUC on September 5, 1996. Furthermore, at least as a matter of California Legislature policy, Roseville is not

that a loss of revenue in one area may be cushioned by revenues from many other areas, and rural telcos have a proposed multi-year transition period before they lose their current LTS and universal service support prior to receiving support based on proxy-models, mid-sized LECs have neither the cushioning resources nor the transition period. Lastly, in the context of access charge reform, while the Commission is proposing to again mandate the use of TELRIC based prices (thus denying LECs the opportunity to recover the total cost of providing service), and to take the TIC away without any substitute cost recover mechanism, at least it is offering price-cap carriers access charge reform that may allow them to fully respond to competition. Yet, mid-sized ROR LECs are asked to wait for such comprehensive reform, unable to fully respond to current or imminent competition.

The above-described regulatory squeeze is arbitrary and capricious, and should be addressed in all three of the Trilogy proceedings. At the very least in this proceeding, the Commission must allow LECs to recover the total cost of providing

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exempt from competition after January 1, 1997. In any case, the Commission should not rely on Section 251 remedies in crafting its policies, since such remedies are not conferred by the Commission itself, but rather by the States.

service, and must make comprehensive access charge reform (including pricing flexibility) available to all ROR LECs, as described by Roseville in its initial Comments in this proceeding.

Respectfully submitted,

ROSEVILLE TELEPHONE COMPANY

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February 14, 1997

CERTIFICATE OF SERVICE

I, Judy G. Ryan, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C., do hereby certify that true and correct copies of the foregoing Reply Comments of Roseville Telephone Company were served this 14th day of February, 1997, by hand delivery upon:

Competitive Pricing Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 518
Washington, DC 20554

and by United States First Class Mail, prepaid, upon:

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